

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MAX REED, II,

Plaintiff,

v.

NEVADA DEPARTMENT OF  
CORRECTIONS, *et al.*,

Defendants.

Case No. 3:14-cv-00313-MMD-VPC


ORDER

On May 23, 2016, the Court adopted the Report and Recommendation ("R&R") of Judge Valerie P. Cooke (ECF No. 127) in full and denied Plaintiff's requests for a temporary restraining order and preliminary injunction. (ECF No. 129.) On May 31, 2016, Plaintiff filed a late objection, which the Court construed as a Motion for Reconsideration. (ECF No. 130.) The Court denied the Motion for Reconsideration on August 2, 2016. (ECF No. 144.) In the meantime, on June 3, 2016, Plaintiff filed a motion entitled "Third Request for Extension of Time to File an Amended Complaint and Request for Emergency Stay Pending Outcome of (TRO) Request for Adequate Access to the Courts." (ECF Nos. 131, 132.) Plaintiff then filed an additional emergency request for a stay a few days later, on June 6, 2016. (ECF No. 134.) On July 11, 2016, Plaintiff filed a motion entitled "Request for 'Status Check' on Several Pending Motions." (ECF No. 141.) On August 8, 2016, Plaintiff appealed the Court's Order denying his Motion for consideration. (ECF No. 145.) Defendants have responded to Plaintiff's motions. (ECF No. 137.)

1 Defendants ask the Court to deny Plaintiff's motions because during an  
2 interlocutory appeal, this Court is divested of jurisdiction. *See Stein v. Wood*, 127 F.3d  
3 1187, 1189 (9th Cir. 1997) ("[T]he filing of a notice of appeal divests a district court of  
4 jurisdiction over those aspects of the case involved in the appeal."). The Court agrees  
5 that the pending motions and Plaintiff's appeal both deal with issues relating to his  
6 constitutional right of access to the courts. Therefore, the Court finds denying the motions  
7 without prejudice pending Plaintiff's appeal will avoid the "confusion and waste of time  
8 that might flow from putting the same issues before two courts at the same time. *Id.* (citing  
9 *Kern Oil & Refining Co. v. Tenneco Oil Co.*, 840 F.2d 730, 734 (9th Cir. 1988)).

10 For these reasons, it is ordered that Plaintiff's Third Request for Extension of Time  
11 to File an Amended Complaint and Request for Emergency Stay Pending Outcome of  
12 (TRO) Request for Adequate Access to the Courts (ECF Nos. 131, 132); Emergency  
13 Request for Stay of Proceedings (ECF No. 134); and "Request for 'Status Check' on  
14 Several Pending Motions" (ECF No. 141) are denied without prejudice.

15 DATED THIS 14<sup>th</sup> day of March 2017.

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18 MIRANDA M. DU  
19 UNITED STATES DISTRICT JUDGE  
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